

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Doran and Beverly M. Welch,**

Petitioners-Appellants,

v.

**City of Cedar Rapids Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 10-101-0330  
Parcel No. 14222-31011-00000**

On March 16, 2011, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Doran and Beverly M. Welch were self-represented and requested the appeal proceed without hearing. The Black Hawk County Board of Review designated City Attorney James H. Flitz as its legal representative. The Appeal Board having reviewed the record and being fully advised, finds:

***Findings of Fact***

Doran and Beverly M. Welch are the owners of a residentially classified, single-family residence located at 1508 A Avenue NE, Cedar Rapids, Iowa. The property is a two-story home, built in 1913, and has 1672 square feet of total above-grade living area. The property has a 676 square-foot, unfinished basement. There is also an 864 square-foot two-car, detached garage built in 2003; a 176 square-foot open front porch, and a 192 square-foot rear deck. The site is 0.129 acres. According to notes on the property record card, the subject property was a multi-family property that was converted back to a single-family property beginning in May of 2004. The remodeling was on-going and noted as "complete" for the January 1, 2009, assessment.

The January 1, 2010 assessment of The Welch's property increased from the previous year's assessment allowing all grounds for protest.

The Welches protested to the City of Cedar Rapids Board of Review regarding the 2010 assessment allocated as follows: \$10,000 in land value and \$92,365 in improvement value for a total assessment of \$102,365. The Welches asserted the market value of the subject property was \$81,292.

The Welches claim was based on the following grounds: 1) that the assessment was not equitable compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b). The Welches had also marked the claim that there is an error in the assessment under code section 441.37(1)(c). However the error claimed is "it is assessed more than 5% of area by state law" which we consider as a continuation of the claim that the assessment is for more than authorized by law.

The Board of Review granted partial relief, reducing the total assessment to \$98,800.

The Welches then appealed to this Board reasserting their claims of inequity and over-assessment and that the correct value of the subject property is \$81,292.

The Welches listed five properties on their petition to the Board of Review as equity comparables. They listed the address, parcel number, assessed value and assessed value per square foot. The five properties are 1512, 1524, 1532, 1540, and 1546 A Avenue NE. There is no narrative comparison or analysis of the properties. A three-page "appraisal summary" print-out from the assessors website for each of the five properties was included with the petition. The summary includes basic information about each property such as, the class of the property, address, deed holders, legal description, basic information about the improvements, notes, 2008 through 2010 assessment breakdowns, and a sketch. At the bottom of the first page for each appraisal summary are two handwritten numbers. The numbers are unexplained.

There is also a partial hand-drawn plat map which appears to show properties along A Avenue NE as it intersects 15th Street. All five of the previously listed properties are on the map, as is the subject property. There are four additional properties noted on the map; however, no property record cards were included for these additional properties. The additional properties on the map have the following house addresses noted 1506, 1516, 1522, and 1528. Each “lot” on the map includes the house number, parcel number, assessed value, and a calculation for the assessed land value per square foot, as well as the assessed improvements per square foot. At the bottom of this page is a handwritten note stating “average square foot 43.49.” While not specifically noted, this number appears to reference the average assessed value of the improvements per square foot of the ten properties on the map.

Additionally, there is the following note and calculation:

Avg House	\$72,293
<u>Avg Land</u>	<u>\$ 8999</u>
	\$81,292

The calculation results in the value the Welch’s contend is the correct value of their home. There is no other commentary or analysis included to further explain this document.

The Welches also offer nine sales of properties they consider comparable to their property for a market value claim. This list includes the sale date, address, assessment, and sales price of each property. While the petitioner did not explain or analyze the nine sales they offered, information on these properties was provided to this Board by the City Assessor’s office.

Additionally, a second list of twenty-one sales in “zone 155” was included by the Welches. This list consists of two columns one titled “sales” and the other titled “assessed at old rate.” There is no written explanation or analysis to this list. With no explanation, the list of twenty-one properties is meaningless to this Board and we give it no consideration.



Lastly, the Welches submitted a clipping from *The Gazette*, dated Wednesday, June 23, 2010. The article is titled “Sales Dip as Housing Market Struggles” however, the article is based upon a national overview of the housing market and there is no reference specifically to the Cedar Rapids market.

The City of Cedar Rapids Assessor provided the Board of Review’s exhibits A through E. Exhibit B is a nine-page written statement explaining the facts, valuations and other attachments. The opening statement section states the petitioner submitted a total of nine comparables based on equity and nine comparables based on market value.

In regards to the petitioner’s equity comparables, the statement indicates that they “range in condition from very poor to above normal, and occupancy type from residential/single-family dwelling to commercial/conversions. The subject property is a two-story, single-family dwelling assessed at above-normal condition.”

It goes on to detail that the subject is assessed at above-normal condition to reflect major remodeling such as updated exterior, newer vinyl siding and windows throughout, updated interior, refinished hardwood flooring and new oak kitchen cabinets. The statements and subsequent condition rating of the subject is verified though notes on the property-record card between 2007 and 2010. The notes indicate “major remodeling, 1st floor laundry, 30% until complete” and additional notes indicate the work has been done and ultimately complete with a comment to “adjust condition to above normal.” The property-record card offers further verification of this with building permit dating from 2003 to 2006 for items such as the garage, roof work, siding, general exterior remodeling, deck/patio, and fencing.

The statement lists the petitioners’ comparables on page 2, as “1 through 9” with the assessed value, total living area, and assessed value per square foot for each numerically listed property. Exhibit D includes a one-page property record card summary of each of the nine comparables. By

cross reference of the assessed values and total living area we are able to identify by address, the corresponding numerical comparable listed on page 2. We have created a grid as seen in Figure 1 with the information presented in the exhibits.

**Figure 1**

<b>Comparable</b>	<b>Address</b>	<b>Condition Rating</b>	<b>Classification</b>	<b>Total Living Area</b>	<b>2010 Assessed Value</b>	<b>Assessment/SF</b>
1	1532 A Ave NE	Poor	Residential	1250	\$61,051	48.84
2	1506 A Ave NE	Below Normal	Residential	1281	\$68,471	53.45
3	1546 A Ave NE	Poor	Residential	1288	\$60,189	46.73
4	1522 A Ave NE	Below Normal	Residential	1411	\$81,580	57.82
5	1512 A Ave NE	Below Normal	Residential	1427	\$78,823	55.24
6	1516 A Ave NE	Above Normal	Residential	1432	\$97,717	68.24
7	1528 A Ave NE	Below Normal	Residential	1546	\$90,235	58.37
8	1524 A Ave NE	Not Provided	Commercial	1578	\$26,827	17.00
9	1540 A Ave NE	Very Poor	Residential	1796	\$55,684	31.00

The statement details all nine equity comparables and their individual characteristics.

However, the statement fails to specifically explain if, or why, the Board of Review believes a property submitted by the petitioner is not a reliable equity comparable.

We noted that equity Comparables 1 thru 5, 7, and 9 are all listed as being in either below-normal, poor, or very poor condition. Comparable 6 is rated as above-normal condition similar to the subject property. While condition ratings in and of themselves would not exclude a property for comparison, significant differences in the ratings would impact the comparability of those properties without proper adjustment. There is no condition rating reported for Comparable 8, however this property is noted as having a commercial classification because it is a conversion (multi-unit) property. Because it is a different classification it can not be considered as an equity comparable. By virtue of significant and unadjusted condition ratings, or different classifications, all equity comparables offered by the petitioners with the exception of Comparable 6, would not be considered similar to the subject for equity comparison. While Comparable 6 appears to be a reasonable equity comparable based upon



the limited information provided, in order to prove inequity, more than one comparable must be presented. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965).

The Board of Review's statement goes on to explain the "petitioners' market comparables." Again, a list is provided of Comparables 1 through 9. Eight property record cards are included in Exhibit D. One property sold twice and both sales were considered for comparison (Comparables 8/9) which resulted in nine sales and only eight properties. See Figure 2 below for a grid with the information in the record of comparables 1 through 9.

Figure 2

Comparable	Address	Condition Rating	Classification	Style	Total Living Area	Sold Date	Sales Price
1	1522 D Ave NE	Above Normal	Residential	1.5 Sty	972	8/1/2008	\$74,000
2	1624 C Ave NE	Above Normal	Residential	1 Sty	1212	1/21/2009	\$80,000
3	1527 D Ave NE	Normal	Residential	2 Sty	1232	2/18/2009	\$79,000
4	1551 D Ave NE	Below Normal	Residential	2 Sty	1283	3/23/2009	\$60,000
5	216 15th St NE	Normal	Residential	2 Sty	1384	6/20/2008	\$46,600
6	317 17th St NE	Normal	Residential	2 Sty	1528	6/17/2008	\$86,900
7	1612 C Ave NE	Below Normal	Commercial	2 Sty	1542	3/5/2009	\$57,250
8	408 17th St NE	Normal	Commercial	2 Sty	1784	4/14/2009	\$29,000
9	408 17th St NE	Normal	Commercial	2 Sty	1784	10/1/2008	\$23,500

The Board of Review acknowledges that all nine properties offered by the petitioners as market comparables are located within the subject's neighborhood. But, the properties range in class/occupancy type, condition, and style.

Comparable sales 7 and 8/9 are commercially classified properties and as such we do not consider them comparable to the subject.

Comparable 1 has only 972 square feet of above grade living area (GLA) compared to the subjects 1672 GLA. We believe the significant size difference would limit the comparability. Comparable 2 is a one-story dwelling compared to the subject's two-story design. The Board of Review notes that "there is an abundance of two-story, frame dwellings within the subject's neighborhood and nearby neighborhoods." Therefore, we do not consider it comparable.

This leaves only Comparables 3 through 6 for comparison. The Board of Review's statement does not reconcile this information or indicate its belief that these four remaining properties would not be comparable to the subject property. These four comparables have unadjusted sales prices ranging from \$46,600 to \$86,900. But we note they are all smaller than the subject in size, ranging from 1232 square feet to 1542 square feet, compared to the subjects 1672 square feet.

The Board of Review then offers four of its own equity comparables and four market comparables. The four equity comparables range in total living area from 1624 to 1694 square feet, which is more similar to the subjects living area of 1672 square feet. All four properties are rated as "normal" condition compared to the subject's "above-normal" condition. These four properties rated in normal condition have 40% depreciation considered, whereas the subject property rated in above normal has 35% depreciation considered. We find the difference is minimal and despite slight differences in condition the properties are reasonably similar. However, it would have been prudent for the Board of Review to comment on the differences in condition considering its observations regarding differences between the petitioners' equity comparables condition ratings and the subject property. The four properties presented by the Board of Review's office as equity comparables range from \$92,986 to \$103,134; and the assessed value per square foot ranges from \$55.25 to \$61.65. The subject's assessed value of \$98,800 and assessed value per square foot of \$59.09 is within both ranges.

The Board of Review also offers four market comparables. The four properties offered range in size from 1382 to 1528 square feet and have unadjusted sales prices ranging from \$86,900 to \$95,000. We note the subject's assessed value of \$98,800 is above this sales price range however, it is an unadjusted range and all the sales are smaller in size. The Board of Review provides information about each sale, but there are no comparisons to the subject, no adjustments, no analysis, and no reconciliation of the data.



The Board of Review provided evidence on all the properties submitted by the petitioner, as well as its own comparables. However, it fails to analyze or reconcile any of the data to a final conclusion limiting the persuasiveness of the evidence. The Welches offer only minimal data with no analysis or reconciliation to support their position.

Based on the foregoing, we find insufficient evidence has been presented to demonstrate the subject is either inequitably assessed or assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing



“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

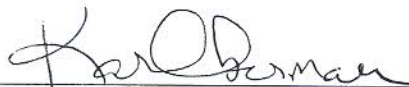
The Welches provided nine properties they considered as equity comparables, however one has a commercial classification whereas the subject property is residentially classified; and several were rated at below-normal, poor, or very poor condition compared to the subject’s above-normal condition without comment or adjustment.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Again, the Welches provided eight properties representing nine sales for comparison to establish market value. However, we do not consider five of the sales similar due to having a different classification, different style, or significantly smaller living area. The remaining four sales are unadjusted, unexplained, and not reconciled to a value conclusion.

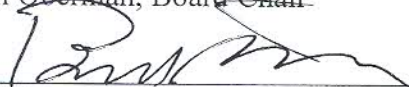
In the opinion of the Appeal Board, the evidence does not support the claims that the property’s assessment is not equitable with like properties or assessed for more than the value authorized by Iowa Code section 441.21. We therefore affirm the assessment of Doran and Beverly M. Welches property as determined by the City of Cedar Rapids Board of Review as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of Doran and Beverly M. Welches property located at 1508 A Avenue, NE, Cedar Rapids, Iowa, of \$98,800 as of January 1, 2010, set by the City of Cedar Rapids Board of Review, is affirmed.

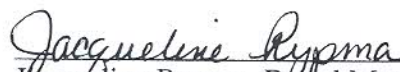
Dated this 29 day of April, 2011



Karen Oberman, Board Chair



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-29</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	